

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JACQUES SAADE,

Plaintiff,

V.

PENNYMAC LOAN SERVICES, LLC,
PENNYMAC MORTGAGE INVESTMENT
TRUST HOLDINGS I, LLC, PNMAC
MORTGAGE CO. LLC, DEUTSCHE
BANK AS TRUSTEE OF PENNYMAC
LOAN TRUST 2011-NPL1, MORTGAGE
ELECTRONIC REGISTRATION
SYSTEMS, INC., CHRISTIANA TRUST,
WILMINGTON SAVINGS FUND SOCIETY,
FSB, SPECIALIZED LOAN SERVICING, LLC,
JENNIFER KIRKWOOD,
CITIMORTGAGE, INC., CITIBANK N.A., and
MORTGAGE LENDERS NETWORK, INC.,

CIVIL ACTION NO. 15-CV-12275-IT

Defendants.

ORDER

October 17, 2016

TALWANI, D.J.

On September 1, 2016, a Magistrate Judge issued an Order To Show Cause [#99], requiring Plaintiff, Jacques Saade, to show cause why Defendant Mortgage Lender Network USA, Inc., had not been served in this action as required by Rule 4(m) of the Federal Rules of Civil Procedure and Local Rule 4.1. The Magistrate Judge noted that she would recommend that the claims be dismissed without prejudice unless Plaintiff filed proof of service or showed good cause why service was not made. [#99]

In response, Plaintiff stated that he mailed a copy of the complaint to Defendant, Mortgage

Lenders Network USA, Inc., but that the mail was returned as undeliverable because Mortgage Lenders Network USA, Inc., is no longer in business. Pl.'s Resp. Mag. J. Order 2 [#104].

The court finds that Plaintiff has failed to show good cause why the claims against Mortgage Lenders Network USA, Inc. should not be dismissed. Mortgage Lenders Network USA, Inc., filed for Chapter 11 bankruptcy protection on February 5, 2007, in the United States Bankruptcy Court in the District of Delaware, In re Mortgage Lenders Network USA, Inc., No. 07-10146-PJW (Bankr. D. Del. 2007). Under the Bankruptcy Code, proof of claims must be presented to the Bankruptcy Court for administration or those claims will be lost when a plan of reorganization is confirmed. NLRB v. Bildisco and Bildisco, 465 U.S. 513, 529 (1984). Plaintiff was required to present any claims against Mortgage Lenders Network USA, Inc. to the Bankruptcy Court in the District of Delaware proceeding. See generally 11 U.S.C. § 1141(d)(1)(A).

Additionally, the court finds that there are no factual allegations in Plaintiff's complaint that implicate Mortgage Lenders Network USA, Inc., and while Mortgage Lenders Network USA, Inc. was listed as a party, the Plaintiff avers no facts against it.

For the forgoing reasons, Plaintiff's complaint against Mortgage Lenders Network USA, Inc. is DISMISSED.

IT IS SO ORDERED.

October 17, 2016

/s/ Indira Talwani

United States District Court